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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Western Sahara

Working paper prepared by the Secretariat

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I. Report and good offices of the Secretary-General

1. Pursuant to General Assembly resolution 66/86, the Secretary-General submitted to the Assembly at its sixty-seventh session a report on the question of Western Sahara (A/67/366). The report covered the period from 1 July 2011 to 30 June 2012 and reviewed the activities carried out by the Secretary-General in the exercise of his good offices.

2. Also during the period under review, pursuant to Security Council resolution 1979 (2011), the Secretary-General submitted a report to the Security Council on the situation concerning Western Sahara (S/2012/197).

3. In that resolution, the Security Council expressed serious concern about the increase in violations of existing agreements and called upon the parties to respect their relevant obligations. The Council stressed the importance of improving the human rights situation in Western Sahara and the Tindouf camps and welcomed the establishment of a national council on human rights in Morocco and the implementation of the enhanced refugee protection programme developed by the Office of the United Nations High Commissioner for Refugees (UNHCR). The Council, having considered the report of the Secretary-General (S/2011/249), among other things, reaffirmed the need for full respect of the military agreements with regard to the ceasefire and called upon the parties to adhere fully to those agreements. The Council went on to welcome the parties' commitment to continuing the process of holding small, informal talks in preparation for a fifth round of negotiations and called upon the parties to continue to show political will and work in an atmosphere propitious for dialogue in order to enter into a more intensive and substantive phase of negotiations, thus ensuring the implementation of the relevant resolutions. The Council called upon all parties to cooperate fully with the operations of the United Nations Mission for the Referendum in Western Sahara (MINURSO) and to ensure the security of, as well as unhindered and immediate access for, the United Nations and associated personnel in carrying out their mandate, in conformity with existing agreements. The Council drew the parties' attention to the ideas expressed in paragraph 120 of the Secretary-General's report. The Council decided to extend the mandate of MINURSO until 30 April 2012.

4. Pursuant to the same resolution, the Secretary-General submitted a report dated 5 April 2012 to the Security Council (S/2012/197). In that report, the Secretary-General informed the Council that, by the end of the three rounds of informal talks held between March 2011 and March 2012, no progress had been registered on the core issues of the future status of Western Sahara and the means by which the self-determination of the people of Western Sahara was to occur.

5. The Secretary-General indicated that the seventh round of informal talks had been held in New York from 5 to 7 June 2011. It had once again been clear that neither party was prepared to accept the proposal of the other. For the first time, however, the parties had engaged in exchanges on the mechanism for self-determination of the Western Saharan people. An eighth round of informal talks had been held from 19 to 21 July 2011, also in New York. While there had been no breakthrough in substance, an agreement had been reached on holding an expert-level meeting in Geneva on natural resources and to begin building a common database of existing natural resources and how they were being exploited. The meeting had been held from 8 to 11 November 2011, co-chaired by the Personal

Envoy of the Secretary-General for Western Sahara. As a result of the heated discussions and mutual accusations of a political nature, exchanges on technical issues had been limited.

6. The Secretary-General reported that his Personal Envoy had sought the support of the Group of Friends of Western Sahara for two ideas: consultations with and dialogue among a cross-section of Western Saharans and consultations with a group of respected Maghreb representatives on Western Sahara. While the members of the Group of Friends had expressed broad support for the two initiatives, both Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro (Frente Polisario) had subsequently expressed reservations.

7. The Secretary-General noted that the ninth round of informal talks had been held from 11 to 13 March 2012 in New York. The parties had discussed and disagreed sharply on the purpose of the negotiation process. Two previously agreed specific subjects had been discussed: on demining, the parties had named focal points to further coordination and cooperation with the United Nations Mine Action Service; and on natural resources and the environment, they had confirmed their intention to provide the United Nations not only with focal points but also with all available information on natural resources and the state of the environment.

8. As to maintenance of the ceasefire, the Secretary-General informed the Security Council that MINURSO had observed and recorded 25 new violations by the Royal Moroccan Army, compared with 126 recorded during the previous reporting p..iod. They had included the construction of new buildings, the deployment of heavier calibre artillery pieces, the construction of an antenna tower and the installation of a new mobile radar, bringing to 47 the total number of mobile and fixed-radar violations since 2005. The Mission had observed a total of seven new violations by the military forces of Frente Polisario, compared with 12 recorded in the previous reporting period. Those violations had been related mainly to Frente Polisario military personnel and equipment entering or travelling through the buffer strip. Long-standing violations committed by the Royal Moroccan Army had risen from eight, during the previous reporting period, to nine. The total of long-standing violations committed by Frente Polisario had decreased from four to three. During the reporting period, restrictions on the freedom of movement of MINURSO military observers by both parties had decreased.

9. On mine action, the Secretary-General informed the Security Council that, during the reporting period, a total of 8,260 items had been destroyed east of the berm, in more than 500 contaminated locations. More than 300 km^2 of known minefields remained to the east of the berm. The scope of contamination was not fully known west of the berm.

10. On safety and security, the Secretary-General informed the Council that three humanitarian workers had been kidnapped from Rabouni, near Tindouf, on 23 October 2011, the first abduction incident since the establishment of MINURSO. The Personal Envoy and MINURSO had taken immediate steps to ensure the safety of all personnel in Tindouf and east of the berm.

11. With regard to humanitarian activities, the Secretary-General noted that UNHCR, the World Food Programme (WFP), the World Health Organization and the United Nations Children's Fund (UNICEF) had continued to provide protection and assistance to Western Saharan refugees in the camps near Tindouf. The main

areas of support had been food and water distribution, sanitation, education, transport and logistics, health, agriculture, shelter, protection and community services. WFP had continued to provide 90,000 general food rations and 35,000 supplementary general food rations to the most vulnerable refugees each month, while UNHCR had added complementary food. In addition, the two agencies had conducted 45 general food basket distribution visits to different food distribution points in the camps each month.

12. The Secretary-General stated that, in the health sector, WFP and UNHCR, through their implementing partner, the Algerian Red Crescent, had conducted a supplementary feeding programme for moderately malnourished children under 5 years of age, and for pregnant and lactating women in all camps. UNHCR had continued to support the community-based therapeutic centre programme and provided the Saharan health facilities with the needed consumables. UNHCR had initiated a pilot project focusing on HIV/AIDS and hepatitis. UNICEF had continued to implement its Expanded Programme on Immunization, including capacity-building and cold chain maintenance, to protect children.

13. The Secretary-General noted that, in the education sector, UNHCR had provided support to the nursing school, including by conducting training courses for nurses and midwives and by supplying products and teaching aids. UNHCR had continued to provide support to a number of vocational centres for women, young people and persons with disabilities. It had rehabilitated six schools in the camps to accommodate the sudden return of Western Saharan students from Libya and to train teachers in curriculum development and pedagogy. Since 2008, 25 students had been recipients of UNHCR scholarships. UNICEF had also provided school supplies for the education sector.

14. On confidence-building measures, the Secretary-General informed the Security Council that UNHCR had continued to implement the confidence-building measures programme to facilitate contact and communication between Western Saharan refugees in the Tindouf camps and their families in the Territory west of the berm. Family visits and cultural seminars remained the two fundamental components of the updated plan of action for the measures, as agreed with the parties in January 2012. The confidence-building measures programme had encountered unanticipated challenges following the abduction incident in Rabouni. UNHCR had suspended missions to the refugee camps and postponed family visit flights scheduled between 28 October and 4 November. The family visit flights had resumed on 14 November. To simplify the existing family visit procedures for travel by air, UNHCR had conducted a mass verification exercise from 11 July to 11 October for families registered in the confidence-building measures programme. A total of 6,651 persons had been verified.

15. The Secretary-General noted that, following intensified efforts made by his Personal Envoy and the United Nations High Commissioner for Refugees, UNHCR had chaired a meeting in Geneva on 24 and 25 January 2012. The participants had agreed that UNHCR should assess options for the use of new information technologies to facilitate communication links between the families. They had also reaffirmed the importance of the confidence-building measures programme and the need to find ways and means to maximize the links between families who had been divided by conflict for 36 years.

16. At the same meeting on the confidence-building measures, the parties had agreed to maintain — but put on hold — the road option as a possibility to increase the number of beneficiaries. In the interim, they had agreed to seek a larger aircraft with a carrying capacity of 150 passengers, potentially increasing the number of beneficiaries of the family visits to 6,000 annually. From 12 to 16 September 2011, UNHCR had organized a seminar in Madeira, Portugal, on Hassaniyya culture, traditional heritage and practices. The seminar had been attended by 34 participants drawn equally from the Territory and from the Tindouf camps in Algeria.

17. On human rights, the Secretary-General informed the Security Council that Frente Polisario was continuing to appeal for the protection of the human rights of Western Saharans and for an independent monitoring mechanism in the Territory. The Government of Morocco had provided information to the Office of the United Nations High Commissioner for Human Rights (OHCHR) on its actions regarding the human rights situation in Western Sahara. On 14 April 2011, the Casablanca Court of Appeals had provisionally released Western Saharan activists Ali Salem Tamek, Brahim Dahane and Ahmed Naciri, after 18 months in pretrial detention. According to information received by OHCHR, some 120 Western Saharans, including women, had been tried on a range of charges, including violence against civil servants, before the Laayoune Civil Court of Appeals. In November 2011, in its consideration of Morocco's fourth periodic report, the Committee against Torture had expressed concern about the alleged use of excessive force by Moroccan law enforcement officers and security personnel. The Secretary-General informed the Council that it was too early to assess the full impact of the Human Rights Council monitoring mechanisms.

18. Pursuant to Security Council resolution 1979 (2011), the Secretary-General examined the existing challenges to MINURSO operations, reflecting on the situation on the ground. The challenges fell into three categories: those related to the mandate, military and substantive civilian activities, and security conditions.

19. In terms of the Mission's mandate, the principal purpose of establishing MINURSO was to organize and supervise a referendum on the self-determination of Western Sahara and, as a supportive function, to monitor the ceasefire between the parties and maintain the military status quo. The stalled political process had meant that MINURSO had not been able to implement a referendum or continue organizational preparations for the transition process. The MINURSO mandate was thus de facto restricted to monitoring the ceasefire and, since the original mandate had anticipated an imminent referendum, the Security Council's instructions on ceasefire monitoring had been general in nature. Divergent interpretations of the Mission's mandate had led to an approach to the Mission that had, over time, eroded the Mission's authority, weakened its functions and brought about deviations from standard peacekeeping practices.

20. The Secretary-General noted that challenges related to the military and substantive civilian activities of MINURSO were also grounded in derogations from generally accepted peacekeeping principles, norms and practices. Military monitoring and reporting of violations suffered from the lack of precise ceasefire terms and the Mission's lack of authority to prevent or rectify non-compliance. Military agreement No. 1 regulated military equipment, new defensive construction and deployments in the restricted areas adjoining the berm in order to maintain the 1991 status quo. Neither side fully respected the agreement. Those factors had

undermined the Mission's ability to monitor and report consistently on the situation on the ground, and to uphold the spirit and letter of the ceasefire and military agreements and the deterrent effect of the United Nations international presence.

21. The Secretary-General pointed out that MINURSO was responsible for monitoring, assessing and reporting on local developments affecting or relating to the situation in the Territory, maintenance of the ceasefire, and political and security conditions affecting the peace process led by his Personal Envoy. East of the berm, the security of MINURSO personnel was a growing concern affecting operational activities. Out of concern for the security of MINURSO military observers, Frente Polisario had advised MINURSO to limit its movements, following the October 2011 abductions in the Tindouf area. MINURSO and Frente Polisario had put additional security measures in place, although more might be needed depending on further developments and the gravity of security implications. Both parties guaranteed MINURSO freedom of movement and access to interlocutors, provided that the parties' forces were treated equally, according to Frente Polisario, and according to Morocco, conditioned by the bounds of established practice. Established practice was at the core of the challenges facing MINURSO operations. It had become increasingly difficult for MINURSO to fulfil mandate implementation requirements.

22. In his observations and recommendations, the Secretary-General pointed out that, during the reporting period, it had been confirmed that the parties had continued to have the political will to meet, but not, to date, to engage in substantive negotiations towards the objective set forth by the Security Council in successive resolutions: "a just, lasting, and mutually acceptable political solution, which will provide for the self-determination of the people of Western Sahara".

23. The Secretary-General noted that his Personal Envoy would continue his established pattern of activities, including those outlined in paragraph 120 of his previous report (S/2011/249). His Personal Envoy would also encourage the parties to facilitate visits by diplomats, legislators, journalists and others to permit the international community to gain a greater understanding of the views of those directly affected by the conflict.

24. The Secretary-General noted that addressing human rights issues was also important for the larger resolution of the conflict. All parties had responsibilities to ensure the protection of human rights. Efforts had been made in that regard, but human rights issues continued to be raised with regard to the people of Western Sahara, demonstrating that concerns persisted.

25. The Secretary-General welcomed the anticipated family visit capacity expansion to increase the number of refugees and their family members and noted the successful inter-Saharan cultural seminar and the parties' commitment to continuing constructive cooperation with UNHCR in the effort to alleviate the divisive effects of the conflict. He noted the progress made in the clearance of landmines and explosive ordnances of war and the decrease in mine accidents recorded since his previous report, in addition to the positive reception and constructive discussions held by each party with the United Nations Mine Action Service on the implementation of International Mine Action Standards on both sides of the berm.

26. The Secretary-General noted that the Mission's ability to fully monitor and assess the situation in the Territory and to interact with the full spectrum of interlocutors was essential, expressing concern at the evidence of simmering community tensions in the western part of the Territory and at the deterioration of security conditions in the region. Furthermore, he noted that the challenges outlined in his report demonstrated that MINURSO was unable to exercise fully its peacekeeping monitoring, observation and reporting functions or avail itself of the authority to reverse the erosion of its mandate implementation capabilities on its own. He sought the Security Council's support to sustain the peacekeeping instrument, as it was intended to operate, for three critical purposes: (a) as an instrument of stability should the political stalemate continue; (b) as a mechanism to support the implementation of successive Council resolutions relating to the mandate of MINURSO; and (c) to provide independent information on conditions on the ground to the Secretariat, the Council and the international community.

27. The Secretary-General expressed the belief that the presence of MINURSO, as a guarantor for the stability of the ceasefire, and as a visible commitment of the international community to achieving a resolution of the conflict, remained relevant. In that context and in the light of the continuing efforts of his Personal Envoy, he recommended that the Security Council should extend the mandate of MINURSO for a further 12 months, until 30 April 2013.

II. Consideration by the Security Council

28. Following consideration of the report of the Secretary-General on the situation concerning Western Sahara (S/2012/197), on 24 April 2012, the Security Council unanimously adopted resolution 2044 (2012), by which, among other things, it reaffirmed the need for full respect of the military agreements, called upon all parties to cooperate fully with the operations of MINURSO and to ensure the security of, as well as unhindered and immediate access for, the United Nations and associated personnel in carrying out their mandate, called upon the parties to continue to show political will and work in an atmosphere propitious for dialogue and to continue negotiations under the auspices of the Secretary-General without preconditions and in good faith, among other things, by continuing their discussion of the ideas in paragraph 120 of the Secretary-General's report (S/2011/249), with a view to achieving a just, lasting and mutually acceptable political solution, which would provide for the self-determination of the people of Western Sahara, in the context of arrangements consistent with the principles and purposes of the Charter of the United Nations, and noted the role and responsibilities of the parties in that respect. The Council decided to extend the mandate of MINURSO until 30 April 2013.

III. Consideration by the General Assembly

29. During the general debate at the sixty-seventh session of the General Assembly, a number of representatives referred to the question of Western Sahara in their statements. During the debate from 9 to 11 October 2012, the Special Political and Decolonization Committee (Fourth Committee) heard statements by 61 petitioners on the question of Western Sahara (see A/C.4/67/SR.3-5). On 8, 11 and

12 October 2012, some Member States addressed, among other things, the issue of Western Sahara. Some of them strongly supported the right of the Saharawi people to self-determination, reaffirmed their support for the relevant Assembly and Security Council resolutions, the efforts of the Secretary-General and his Personal Envoy for Western Sahara and stressed the importance of expanding the mandate of MINURSO to include a human rights component. Others believed that the autonomy plan by Morocco offered a realistic and viable option and could provide the best prospect for achieving a mutually acceptable solution to the question (see A/C.4/67/SR.2, 5 and 6).

30. At its 7th meeting, on 15 October 2012, the Committee approved without a vote a draft resolution entitled "Question of Western Sahara" (A/C.4/67/L.4), submitted by the Chair. After the adoption of the draft resolution, the observer for the European Union made a statement in which she welcomed the consensual adoption of the resolution and reaffirmed the Union's full support for the Secretary-General's efforts to achieve a just, lasting and mutually acceptable solution to the dispute.

31. On 18 December 2012, the General Assembly adopted the draft resolution without a vote, as resolution 67/129. In that resolution, the Assembly, among other things, welcomed the commitment of the parties to continuing to show political will and working in an atmosphere propitious to dialogue; welcomed the ongoing negotiations between the parties; requested the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to continue to consider the situation in Western Sahara and to report thereon to the Assembly at its sixty-eighth session; and invited the Secretary-General to submit to the Assembly at its sixty-eighth session a report on the implementation of the resolution.